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SERVICE DATE - OCTOBER 22, 2004

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34533]

Southwestern Railroad Company, Inc.—Lease and Operation Exemption—The Burlington Northern and Santa Fe Railway Company

Southwestern Railroad Company, Inc. (SWRR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 et seq. to lease and operate from The Burlington Northern and Santa Fe Railway Company the following 227.6 miles of rail line located: (1) on the Carlsbad Subdivision between milepost 0.5, at Clovis, NM, and milepost 183.0, at Carlsbad, NM; (2) in the Carlsbad Yard;¹ (3) on the Carlsbad Industrial Spur between milepost 0.0 and milepost 20.0, at Carlsbad, NM; and (4) on the Loving Industrial Spur between milepost 0.0, at Carlsbad, NM, and milepost 20.0, at Loving, NM.

Because SWRR's projected annual revenues will exceed \$5 million, SWRR certified to the Board on August 4, 2004, that, on July 29, 2004, it had posted the required 60-day notice of intent to undertake the proposed transaction at the workplace of the employees on the affected line and that, on August 4, 2004, it had served a copy of the

¹ SWRR states that there are no milepost designations associated with this 5.1-mile line of railroad located in the Carlsbad Yard.

notice of intent on the national offices of all labor unions with employees on the rail line.

See 49 CFR 1150.42(e).

SWRR states that it intended to consummate the transaction on or after the October 3, 2004 effective date of the exemption (60 days after its certification to the Board under 49 CFR 1150.42(e)).

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34533, must be filed with the Surface Transportation Board, 1925 K Street N.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Karl Morell, Of Counsel, Ball Janik LLP, Suite 225, 1455 F Street, N.W., Washington, DC 20005.

Board decisions and notices are available on our website at
“WWW.STB.DOT.GOV.”

Decided: October 19, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary